NOVA SCOTIA POLICE COMMISSION

REPORT OF THE COMMISSION OF INQUIRY INTO MATTERS RELATING TO THE DEATH OF DEAN RICHARD

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NOVA SCOTIA

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1. Background Leading to the Inquiry into the Death of Dean Richard

a) The Motor Vehicle Accident

On July 7, 1996, Dean Richard, who was 22 years old, died as a result of injuries he sustained from a motor vehicle accident. Early that morning he was thrown from the vehicle in which he was a passenger when the driver lost control. He landed on the highway and was struck by a second vehicle which came upon the scene seconds later.

Dean Richard lived at home with his parents, C.J. and Karen Richard. They lived in Lower Sackville and Dean had grown up in that community. He worked at the Price Club in Halifax and although he had a driver's license, his father would frequently give him a lift to or from work. He had a sister who was married with one child at the time of his death. They are a close family and Dean's death has caused them immeasurable grief.

On July 6, Dean Richard and his friend Shane Mailman, who also lived in Lower Sackville, went to downtown Halifax for a night of dancing, socializing with friends and drinking. They traveled into town with an acquaintance, Scott Lecky, and it was their intention to return home with Mr. Lecky at the end of the evening. They went to an area of the downtown commonly known as the "liquor dome" at about 11 p.m. Shane Mailman gave evidence and stated that he and Dean started drinking beer earlier in the evening and estimates that he had around nine beer between 9 p.m. and 3 a.m. He guessed that Dean probably had around the same amount to drink.

When it came time to leave, Shane and Dean couldn't find Scott Lecky so they started walking toward the area where Mr. Lecky had parked his car. Along the way, they were offered a drive with Jane LeFresne who also lived in the Sackville area.

Jane LeFresne was 19 years old at the time. She was a student at Mount Saint Vincent University and worked part time at Tim Hortons. She lived at home with her parents and occasionally used her father's Toyota 4x4 motor vehicle. She had been working that evening and got off around 10 p.m. She headed downtown with her friend Christa Richardson and arrived at the "liquor dome" between 11:30 p.m. and midnight.

Jane LeFresne had one drink of alcohol that night. She had a cocktail and perhaps a sip of someone else's beer. She then switched to water and pop. She socialized downtown two or three times per month. If she wasn't driving, she would have four or five drinks; if she was driving she would have no more than one drink.

Christa Richardson introduced Jane LeFresne to Dean Richard and Shane Mailman. Jane knew a few others who were there and spent most of the evening with the group. She left around 3 a.m. with Christa and Shelly Knapton and Lori MacDonald. Lori took the front passenger seat; Christa sat behind the driver and Shelly sat next to Christa in the middle rear passenger seat. All were wearing seat belts. The rear right seat belt was not working.

They saw Dean and Shane walking so they offered them a ride. The young men sat in the back seat so there were four where normally only three could sit comfortably. Neither man had a working seat belt available to them. Shane got in first and Dean sat next to him and was therefore closest to the right passenger door.

It was a foggy night. They headed out of town on the 102 highway where the fog became thicker. The highway is four lanes with two in each direction separated by a concrete median. There is an additional lane heading out of Halifax to allow traffic to merge.

Jane LeFresne gave evidence that she passed another vehicle as she came onto the 102. She noted that she was traveling at 110 kmph and as she was about to move into the right hand lane she saw a deer standing in the lane, looking straight at her vehicle. It was about 30 feet away when she saw the deer and the fog had obstructed her view prior to that. She swerved to the right and when faced with the ditch she swerved back to the left, braking as she swerved, and then the vehicle rolled. She recalls hitting her head and hearing glass shatter. When the vehicle came to a stop, she crawled out the driver's side window. When she was half-way out, she saw Dean Richard lying in the centre of the roadway about 10 feet away. His head was toward the median and his feet were towards her but she believes he looked at her and was about to get up. She saw lights of an oncoming vehicle and saw it strike Dean.

Jane LeFresne doesn't remember leaving the vehicle after seeing Dean but within a minute a police officer was there. She had started screaming and the police officer helped her off the road and onto the shoulder.

Lori Macdonald gave evidence that she was 20 years old at the time and was acquainted with Jane LeFresne but was not a class mate. She had several drinks that night but didn't know whether Jane had been drinking.

She recalls that Jane was driving fast but she was not concerned. She testified that Dean commented that Jane "drove fast for a girl". The music was on and she was turned around in her seat singing with the others. She recalls seeing the speedometer at

120 km/h just before the accident. She said she didn't see a deer. She believed Jane was "showing off". The vehicle landed on its roof. She saw Christa crawling out the back window and she followed her out and went to the side of the road. She remembers being scared that another vehicle might come along and as she was crawling out, she thought she heard a scream.

Christa Richardson gave a statement to the police on the night of the accident and one to the insurance adjuster a couple of days later. Ms. Richardson was killed in a motor vehicle accident in January of 2000 and therefore did not give evidence at the inquiry. In her statements, she said that she saw something on the road. She had one drink that night and confirmed that Jane also had one drink. She didn't notice Jane's speed as being too fast. Shelly helped her out of the vehicle. She heard squealing tires and saw a maroon car hit someone lying on the road just as she was getting out. She quickly went to the side of the road and sat down.

Shelly Knapton who was 20 at the time confirmed that as she was helping Christa out of the vehicle, she heard tires squeal. She saw a car hit Dean who was lying in the roadway. She did not see him move prior to impact. His body went under the car.

Shelly knew Lori, Shane and Dean but didn't know Jane. She recalled that Jane told Dean and Shane that the seat belt was not working. Shane and Dean didn't seem to care about the lack of seat belts. She described the young men as "pretty drunk". She didn't recall the weather conditions or the speed of the vehicle.

Shane Mailman recalled the weather conditions as being "really foggy". He thought the vehicle speed was normal in the city but they speeded up as they reached the highway where they were going pretty fast. Shane was thrown out of the vehicle

and landed about five feet from where the vehicle came to rest. He got up and sat on the shoulder. He didn't see Dean but heard tires squeal. He had no idea what caused the accident.

Kimberly MacDonald was 19 years old at the time of the accident. She was a student living at home with her parents in Lower Sackville. She had recently started dating Jeff Kelly who was 20 years old and a student at St. Mary's University. She had the use of her mother's vehicle when her mother didn't need it and sometimes Kimberly allowed Jeff to drive. Her mother's vehicle was a Pontiac 6000. That evening she and Jeff met up with a number of Kimberly's girlfriends; they designated Jeff to be the driver and the young women drank vodka. Jeff drove them downtown at around 11 p.m. Jeff didn't drink anything that night. Just before closing she and Jeff left, their friends stayed behind.

She recalls that it was very foggy and that she was very tired. She had her eyes closed until she felt the car running over debris on the road. She saw an overturned vehicle and when they came to a stop, Mr. Kelly told her there had been an accident and they had hit someone.

Although Ms. MacDonald had a valid driver's license it had expired, and she only became aware of this after the accident. She understood that Jeff Kelly held a beginner's license.

Jeff Kelly gave evidence and confirmed he had not been drinking that night. He recalled the weather conditions as being "fairly foggy". As he approached the accident scene in the left lane he recalled seeing tail lights. He then had a sensation as if he was suddenly driving on a dirt road. He gradually slowed down and then saw someone in

front of him lying on the road, facing the median. He struck the person and pulled over to the side of the road. He sat in his car for several seconds just gripping the steering wheel. He then noticed flashing lights. Kimberly left the car and ran down the road. He heard someone say "there's a pulse over here" and he saw a police officer or paramedic outside his car. He was in shock.

Mr. Kelly confirmed that he had a beginner's license for about four years and kept renewing it every six months. He did not take his final test and although he planned to take the young driver's course, that had fallen through. He had driven Kimberly's car fairly frequently. He testified that he has no vision in his right eye and never did. He has 45 degree peripheral vision. He states it does not really affect his driving and his vision is fine in his left eye.

b) Involvement of Members of the Halifax Regional Police

Constable Mark MacDonald began his service with the Halifax Regional Police as a cadet in 1988 and has performed patrol duties since that time. He has taken a number of training courses since he joined the department including a breathalyzer and Alert course and a level one accident investigator's course. As a police officer he had dealt with an average of five impaired drivers a year and one or two major motor vehicle accidents per year.

He was on duty the night of July 7 and recalls that it was foggy and visibility was low. He was patrolling in his area and had just come off Bayer's Road and headed out Highway 102. There was very little traffic. He saw a vehicle on its roof in the middle of the road and people to the side of the road. He was close enough to the scene that he had to make a judgment call as to whether he should try to stop behind the vehicle or go

around it. He jammed on his brakes and stopped in the middle of the three lanes immediately behind the overturned Toyota. As he was in the process of braking, he grabbed the microphone from the dash and began to call in the accident. As he was speaking a vehicle came up from behind and passed him on the left. The vehicle startled him. At that point in time, he turned on his overhead lights and moved his car to the right. He could see one person climbing out of the overturned vehicle and he went over to the group standing on the side of the road. The young people told him that they couldn't find Dean. Constable MacDonald looked in the Toyota and then looked over the median and in the ditch. He asked where Dean had been sitting and then went back to the Toyota.

By this time two other officers were on the scene and one of them hollered that they found him under the car further up the highway. He saw a female get out of the second vehicle and run further up the highway screaming. The driver sat still looking straight ahead. Constable Young was looking under the vehicle. Constable MacDonald then asked what he could do to help.

Constable MacDonald was obviously troubled by the accident and agonized over his decision to grab the mike before activating the lights. Days later he listened to the tape of his radio call. He testified that you can hear him talking and then being startled. There was seven seconds from the time he called it in to the time the vehicle went by. The tape indicates he said something about someone being hit. He has no memory of seeing Mr. Richard being hit. The tape was not saved.

Constable Mark Young also gave evidence. He was on patrol with Constable Thompson and heard Constable MacDonald's call. They responded because they were in close proximity. They arrived less than two minutes later. He gave evidence that he heard Constable MacDonald say he had come upon a vehicle on its roof on the Bicentennial Highway just before the exit to the South Shore. Constable Young confirmed that he

heard Constable MacDonald say something like "Oh geez, I think he just got hit". When he arrived at the scene, Constable MacDonald was searching the overturned vehicle and said that someone was missing.

Constable Young has been a member of the Halifax Regional Police and its predecessor since 1979. He has performed patrol duties since he began. He is a qualified breathalyzer technician and has a level 1 and level 2 accident investigator's course. He also has paramedic training. Shortly after arriving at the scene, he assisted with taking care of the injuries of the young people at the side of the road until Constable Thompson called him to the second vehicle where Dean Richard was lying underneath. The paramedics arrived and Constable Young accompanied them to the hospital in the ambulance.

Constable MacDonald, who first happened upon the scene, entered a copy of his notebook in evidence. He testified that his notes "were lacking". He obtained some information from Jane LeFresne at the scene, her name and directions to her parents' cottage. He testified that he was quite upset and probably in shock. He stated that his notes should have included a review of the incident, physical observations of Jane LeFresne, etc. He said that he learned from this incident the importance of keeping good notes. He recalls observing for signs of alcohol consumption and knew she was the designated driver. He saw nothing that would have provided him with grounds to make an S.L.2 (Alert) demand, such as odour of alcohol, slurred speech, glassy eyes, etc. She said she wasn't drinking. She told him about the deer and her reaction. She was not separated from the other witnesses and was not interviewed until she was at the hospital.

Constable MacDonald went to the hospital following one of the ambulances. He took statements from Christa Richardson and Lori MacDonald. The statements Constable MacDonald took were lacking in detail and failed to ask basic questions like, "Was

Jane LeFresne drinking?" He does not attempt to excuse himself for any weakness in the statements he took that night but attributes the error to his own emotional condition. He believes that he should not have been involved in taking statements that night.

Constable Tom Thompson has been a member of the Halifax Regional Police and its predecessor since 1975. He responded to MacDonald's call along with Constable Young. One of the young persons said that Dean was missing. Constable Thompson walked toward the vehicle pulled off to the side, further down the road and observed Jeff Kelly behind the wheel; hands fixed to the steering wheel and he was shaking, sweating profusely. He said he thought he hit something. The female passenger was crying hysterically. Constable Thompson looked down, saw the edge of a shirt and felt for a pulse. He called Constable Young over who had paramedic training and a medical kit.

Constance Thompson testified that he did not detect any odour of alcohol coming from Jeff Kelly. Constable Thompson remained at the scene until the highway was cleared and re-opened. He did not make notes at the scene but completed a follow up report the next day.

Constable Trevor Lassaline has been a member of the Halifax Regional Police force and its predecessor since 1990. He has generally been assigned to patrol and has additional training in a number of areas including the breathalyzer and roadside screening device or Alert. He has dealt with 20 to 40 impaired drivers each year. He explained in his evidence the requirements for making a demand of a driver to take the Alert testing. There would have to be some suspicion that the person being dealt with had care and control of the vehicle and that he or she had been drinking. A breathalyzer demand, in contrast, requires reasonable grounds rather than a mere suspicion. Constable Lassaline testified that the one key indicator is the odour of alcohol on a person's breath. He

arrived at the scene of this accident and among other tasks he tended to the vehicle driven by Jeff Kelly.

Constable Lassaline took detailed notes the night of this accident. Those notes confirmed that he smelled Jeff Kelly's breathe and there was no odour of alcohol. There was a strong odour of alcohol from Ms. MacDonald. He wanted to satisfy himself that Jeff Kelly had not been drinking and asked him a number of questions and then asked him to blow in his face. He concluded that Mr. Kelly had not been drinking at all.

Constable Lassaline then transported Mr. Kelly and Ms. MacDonald to the V.G. emergency. He took a statement from Mr. Kelly at the hospital. The initial portion of that statement consists of a narrative followed by questions and answers. The statement includes a detailed description of Mr. Kelly's location that evening, his route and speed at the scene, his observations and reactions at the scene, his contact with police, etc. He is also asked about his alcohol consumption. The questions were not asked randomly, but were framed to elicit particular information.

Constable Lassaline did not take a statement from Ms. MacDonald that morning as in his opinion; she was hysterical and therefore not able to give relative information.

Sergeant Donald Fox has been employed by the Halifax Regional Police and its predecessors since 1975. He arrived at the scene from the inbound lane, parked his vehicle and crossed over the median. Jane LeFresne grabbed and hugged him as she had been a friend of Sergeant Fox's daughter for many years. He did not detect any signs of alcohol use. He assisted at the scene until 4:56 a.m.

One of the issues by the Richards' family was whether or not Ms. LeFresne received preferential treatment because of her relationship with Sergeant Fox, either at the scene or during the course of the investigation. He denied that knowing anyone at the scene would have influenced him and commented on the number of times he has had contact professionally with friends and family and the fact that it had never influenced him in the past.

Sergeant Fox did not take notes at the scene and explained that as he was not taking on an investigation roll, there was no need to keep notes.

Constable Gary Gallant was a level 2 accident investigator and was dispatched to the scene in that capacity. He has been a member of the Halifax Regional Police or its predecessor since 1979. He investigated numerous accidents and received his level 3 by the time of the inquiry.

Constable Gallant arrived at the accident in question just after the injured had been taken to the hospital and the road remained closed. He described in detail his conclusions as to the path of the LeFresne vehicle – his role was to collect data for analysis later by Constable Falkenham and Sergeant Saunders who were the senior accident investigators.

Constable Mark MacDonald (first officer who happened upon the scene) took statements from Christa Richardson and Lori MacDonald at the hospital. He described the statements he took as "lacking" and in hindsight he should not have been involved in taking statements.

Constable Tom Shannon was in East Timor at the time of the inquiry and therefore couldn't give evidence. He had been on foot patrol on Spring Garden Road and was directed to the hospital to assist in taking statements. He took statements from Shane Mailman and Shelly Knapton. These statements consist of a brief narrative and then questions and answers. The Mailman statement does not give any information on the manner or speed of driving or who was the driver. The Knapton statement does not give information on the manner of driving or the consumption of alcohol by the driver.

Constable Shannon was not questioned directly by the inquiry's investigator but responded in writing to written questions forwarded to his lawyer. When asked why he didn't explore those issues, he replied, *"There was no indication that the driver had been drinking, therefore that line of questioning was not pursued."*

In contrast, Constable Mark MacDonald described the process of statement taking as beginning as if he knew nothing and then asking as many questions as possible.

Constable Mark Young (who administered medical assistance to Dean Richard before the paramedics arrived) took Jane LeFresne's statement at the hospital. As was his practice, he had a long conversation with her prior to taking a statement. He acknowledged that the statement was poor and felt in hindsight that as someone involved with the treatment of the victim it was not appropriate for him to take statements.

He did not complete any notes at the scene and did not prepare any notation until the next evening. When picked up at the hospital, he said he was not in any condition to do any report as "his brain was fried".

Constable Ron Falkenham had been with the Halifax Regional Police since 1977. He was one of two accident investigators with the department. He was qualified as a level 3 advanced collision analyst in 1991 and level 4 collision reconstructionist in 1992. He dealt with 300 to 600 accidents a year. In that capacity he prepared the accident investigation for this case.

Based on the physical evidence available at the scene, the speed of either vehicle could not be determined. He believed that Mr. Richard may have been thrown from the vehicle when it hit the median. There was no physical evidence that would indicate that Dean Richard was standing or attempting to stand. There was no damage to the grill of the car or to the hood of the car. If he had been attempting to stand, there would have been some damage to these areas. In his opinion, Mr. Richard was on the ground when he was hit because there was no physical evidence to suggest otherwise.

Constable Falkenham stated that it may have been helpful if he had viewed the vehicle at the scene rather than waiting until the next day. He would have checked a number of things including whether the headlight was on just prior to the accident and whether the speedometer was stuck. He would have taken more photographs from different angles.

He also met with Kim MacDonald and took a cautioned statement. He spoke with Madeline Driscoll, a lawyer representing the city who would deal with prosecuting provincial offences. He concluded there was insufficient evidence to charge anyone with speeding. He had no physical evidence to collaborate witness's statements that the LeFresne vehicle was speeding. He also spoke with Jean Whalen, a provincial crown attorney and concluded there was insufficient evidence to lay a criminal charge.

Constable Falkenham contacted the medical examiner's office and was told that there would not be an autopsy. He confirmed that it would have been useful if all witnesses were questioned on speed and consumption of alcohol.

He closed his investigation on July 18.

Sergeant Barbara Saunders had been with the Halifax Regional Police since 1986. At the time of the accident she had a level 3 collision analyst certification. She and Constable Falkenham were the only two qualified investigators for the department and neither was available at the time of the accident. She assisted Constable Falkenham the next day.

Karen Richard gave evidence. She and her husband received a call from the hospital advising them that their son had been seriously injured in a motor vehicle accident. They rushed to the hospital and could see the evidence of the crash as they traveled inbound on the 102 highway. After seeing their son, they met with Constable MacDonald. They had understood that his injuries were a result of being thrown from the vehicle but Constable MacDonald told them about the second vehicle and that he didn't have time to turn his lights on. Mrs. Richard states that Constable MacDonald was obviously upset and was very compassionate. She did not speak with the young people involved while at the hospital.

Dean Richard died in the early afternoon, later that day. Dr. Chow, the attending physician, wanted an autopsy and the Richards consented. They hoped that an autopsy would be able to distinguish between the injuries received from the first accident (i.e. being thrown from the truck) and the second accident when their son was hit and dragged along the road.

Unfortunately, the medical examiner released the body to the funeral home after the examination was completed without performing an autopsy.

The Richards also saw a report in a local newspaper which indicated that the police said that a "man was trying to get off the highway when he was struck by a passing vehicle." Mrs. Richard therefore believed that someone from the department must have seen Dean attempting to get off the highway contrary to what Constable MacDonald told her. She was unable to determine the source of the information.

The Richards later spoke with Walter Tingley who was investigating the matter for the insurers of the Kelly vehicle. They were told that Jeff Kelly said Dean was on his "hands and knees" (or elbow and knees) and that Jeff Kelly had seen the overturned vehicle before Dean was struck and they questioned why he did not stop. Karen Richard also had her brother-in-law, Jack Kavenough, speak to her neighbor, Kevin MacLellon, who was a police officer. She understood as a result of speaking with Constable MacLellan, that Constable MacDonald had seen Dean on the pavement as his comments were on a tape of the dispatch call.

Constable MacLellan gave evidence at the inquiry and confirmed that he had heard from someone else that the tape of Constable MacDonald indicates he said "My God, a car has hit one of the people on the road ...."

Constable Falkenham met with the Richards in October 1996. The purpose of the meeting was to explain the situation to the Richards in as much detail as possible. When asked why Constable MacDonald hadn't placed his vehicle in a position to shield Dean from oncoming vehicles, Constable Falkenham said that Constable MacDonald may have placed his vehicle in a position to protect himself. At the inquiry, Constable Faulkeham apologized for making that kind of statement because he really should not have at-

tempted to answer when he was just speculating. Only Constable MacDonald could answer that question.

c) *The Involvement of Police and Public Safety Services*

The department of Police and Public Safety Services is a division of the Department of Justice dealing specifically with effective policing throughout the province and reports to the Deputy Minister of Justice. The role of the Division was to prepare and implement a policing plan and to audit police agencies.

The Richard matter came to the attention of Police and Public Safety Services in November, 1996. The then director, Robert Barss received a request from the Attorney General to contact Mrs. Richard. He spoke with Mrs. Richard and realized there were so many questions that he wanted to know what happened.

Mr. Barss instructed David Camp, an audit officer with his division to meet with the Halifax Regional Police, review the file and contact Mrs. Richard.

Mr. Camp was an experienced police officer and had been employed with Police and Public Safety Services from 1995 until 1999 when he retired. He spoke with the Richards and met with them as well. He reviewed the file at the Halifax Regional Police and spoke with Constable Falkenham and Staff Sergeant Hollis.

The results of Mr. Camp's review were contained in a letter to Mr. Barss. Mr. Camp prepared his initial report on November 21, 1996. He met with the Richards on November 29 and prepared a follow-up report on December 3. He met with the Richards again in January, reviewed his report but didn't give them a copy. On January 15,

he prepared another report for Mr. Barss which was reviewed and finalized on April 18, 1997.

The Richards were not satisfied with the answers they received and at that point they contacted the Nova Scotia Police Commission but it was too late to file a complaint under the *Police Act*. There is a six month limitation period.

The Richards received a copy of the April 18, 1997 report and met with the then Minister of Justice in June 1997. In July 1997 they met with Chief Vincent MacDonald. During that meeting, the Richards raised several issues and were still actively seeking answers to several questions. The Chief reported back to the Richards in a letter dated September 22, 1997. The Richards pressed on with their request for an inquiry hoping that a full hearing of all the issues and all the parties would answer their questions, if those answers existed.

This inquiry was ordered by Justice Minister Michael Baker. On March 24, 2000.

2. *Ministerial Direction to Investigate, Inquire and Report*

On March 29, 2000 the Minister of Justice for the province of Nova Scotia directed the Nova Scotia Police Commission to inquire into and report on matters relating to the death of Dean Richard. The scope of the Inquiry is detailed the Appendices of this report on Page 2.

The matter was investigated by the Police Commission and the hearings were held between November 13, 2001 and December 4, 2001. Written submissions were filed and oral submissions were concluded on December 10, 2002.

3. *Questions Raised by the Richards and Issues Arising from the Investigation*

The concerns of the Richards surrounding the accident itself were as follows:

1. Why the drivers of the vehicles involved were not given breathalyzers or Alert demands. The Richards felt that this was an oversight at best and at one point went as far as to suggest that the police turned a blind eye because one of the officers knew Jane LeFresne.

2. Whether the delay in turning on the overhead lights on Constable MacDonald's vehicle contributed to the second accident. The Richards believed that if he had turned on the lights sooner the Kelly vehicle would have been alerted and perhaps avoided hitting Dean.

3. Did Constable MacDonald see Dean Richard before he was struck by the Kelly vehicle? Why didn't Constable MacDonald position his vehicle in such a way as to provide some protection for Dean?

4. Was Jeff Kelly's eyesight a factor that contributed to the accident? The Richards believed that because Jeff Kelly lacked vision in one eye, he should not have been driving. Jeff Kelly had a beginner's license only and was unaccompanied by a licensed driver as Ms. MacDonald's had expired. The Richards believed at one point that Jeff Kelly's license was not renewed because he refused to have his eye sight tested.

5. Did the relationship between the LeFresne family and Sergeant Fox impact on the police investigation.

6. Was the availability of accident reconstruction personnel that night adequate and did this have any impact on the investigation.

The Richards also expressed concerns and had questions regarding issues arising after the accident. These can be summarized as follows:

7. Why was an autopsy not performed? The Richards had hoped that an autopsy would have been able to distinguish which accident caused what injuries and whether Dean had been conscious at the time of the second accident.

8. Why wasn't Jane LeFresne charged with speeding or dangerous driving?

9. Why were the Richards not allowed to see the police accident report?

The Inquiry heard from several witnesses who could be categorized as follows:

1. The young people involved in the accident.
2. Police officers involved at the scene and during the investigation.
3. Medical examiner personnel.
4. Members of Police and Public Safety Services
5. Members of Department of Justice
6. Prosecutors

At the conclusion of the evidence it was clear that although many questions were answered, some would never be resolved. The findings of the Commission of Inquiry on the various questions and issues raised are as follows:

1. *Whether or not the drivers of the vehicles should have been given breathalyzers or Alert demands?*

The inquiry heard from all police officers who had contact with Jane LeFresne and Jeff Kelly on the night in question. Each officer confirmed that neither driver showed any sign of impairment and none noted any odour of alcohol.

Neither driver was impaired by alcohol, nor were they in a condition that would raise any suspicion that they had consumed alcohol. There was therefore no foundation to demand the breathalyzer or even the Alert. This is the only conclusion possible after hearing all the evidence.

The inquiry had access to the officers' notes and to the statements they took. A general review of those documents confirms that they were inadequate; with the exception of Constable Lassaline who took a statement that was thorough. Clear documentation would have assisted anyone reviewing the file in quickly concluding that alcohol did not play a role in the accident. Not only would have this assisted Police and Public Safety Services with their review, and the Richards with their need for detail, it would have immediately removed the cloud of doubt hanging over the heads of the young people involved. Both vehicles were in the care of designated drivers who took their designation seriously. This is a positive sign that likely reflects the attitude of most responsible young people who grew up with the concept of designated drivers and who support stiff penalties for drinking and driving.

As pointed out by Commission counsel, if Jane LeFresne, or others in her vehicle, had been asked whether she had consumed alcohol and they acknowledged that she had (all the evidence indicates that they would have been truthful) there would have been enough reasonable suspicion to make an Alert demand. It is clear that she would have passed a breathalyzer test and likely would have passed the Alert.

The Richards would like to see legislation implemented to require breath testing in all serious accidents. There was insufficient evidence before the Inquiry to make such a recommendation which would have been outside the jurisdiction of the Province and scope of this inquiry.

2. *Whether or not the delay in turning on the overhead lights on Constable MacDonald's vehicle contributed to the second accident.*

When Constable MacDonald came upon the accident scene, he grabbed his radio and began to "call-in" the report before he had come to a stop. He was braking for an emergency to avoid collision with the overturned Toyota. He grabbed the radio before activating the lights because the radio was closer and easier to operate given the emergency. He then activated the lights seconds later. The Kelly vehicle went by in the meantime.

Constance MacDonald's decision to delay the operation of the lights until he stopped was reasonable in the circumstances. Further, the evidence does not indicate that activation of the lights seconds earlier would have made any difference. Jeff Kelly was not driving at a fast rate of speed and he slowed as he came upon the scene. The LeFresne vehicle, lost control a very short time before Constable MacDonald's vehicle and Jeff Kelly's vehicle arrived at the scene.

Given the very short time interval between calling dispatch, braking and activating the lights, it is clear that Constable MacDonald acted reasonably.

3. *Did Constable MacDonald see Dean Richard before he was struck by the Kelly vehicle? If he did see him why didn't he position his vehicle in such a way as to provide some protection for Dean?*

Constable MacDonald has no recollection of seeing Dean on the roadway. Although the audio tape of his call was erased (as was the routine) he did listen to the tape

about a week after the accident. He testified that his call lasted about seven seconds and that at one point he was startled and said something when the second vehicle went by. He believed he said something to the effect that ".... someone's going to get hit". This Inquiry concludes that Constable MacDonald did not see Dean Richard before the second vehicle hit him. It explains his subsequent actions and is the most plausible conclusion given the evidence.

Even if Constable MacDonald had seen Dean just before he was hit, this Commission concludes that there was really nothing he could have done, given the timeframe and the fact that his immediate concern was the vehicle lying in the middle of the road and several young people on the road and exiting the overturned vehicle. He positioned his vehicle as he had been trained; in such a way so to protect those people on the road and other motorists. He really had no choice.

It is not helpful to speculate and to question "what if". This Inquiry could have been as a result of the death or injury of additional young people if Constable MacDonald didn't position his vehicle in the manner he did.

4. *Was Jeff Kelly's eyesight a factor which contributed to the accident?*

Jeff Kelly lacks vision in one eye but has perfect vision in the other eye. He testified that it had no impact on his ability to see except that he would have to turn his head to objects in his extreme periphery. The *Motor Vehicle Act* permits operation of a vehicle in these circumstances. Mr. Kelly's vision was not a contributing factor to the accident.

Mr. Kelly's beginners' license was revoked when he admitted to and paid the fine for driving unaccompanied by a licensed driver. He was unaware that Ms. MacDonald's license had expired. An offence such as this under the *Motor Vehicle Act* does not require knowledge or intent.

The *Motor Vehicle Act* requires retesting in these circumstances and Mr. Kelly declined the test and chose not to renew his license. The retesting had nothing to do with his vision. There was no evidence to suggest that Mr. Kelly's perfect vision in one eye had deteriorated or that he would not have been reissued a license. He chose not to reapply due in large measure to the affect the accident had on him. This Commission hopes that the trauma he experienced does not prevent him from driving in the future.

5. *Did the relationship between the LeFresne family and Sergeant Fox impact on the police investigation?*

Sergeant Fox went to the scene of the accident to assist. Although he knew Jane LeFresne, that fact did not influence his approach to the investigation nor impact on the assistance he was giving. She exhibited no signs of any alcohol consumption and Sergeant Fox, like every other officer who came in contact with her, concluded that alcohol was not a factor.

The fact that Sergeant Fox knew the LeFresne family did not impact on his approach, or any other police officer's approach to the case.

6. *Was the availability of accident reconstruction personnel that night adequate and did this have any impact on the investigation?*

Neither Sergeant Saunders nor Constable Falkenham was available at the time of the accident. They visited the scene the next day and were able to use the photographs, notes and diagrams prepared by Constable Gallant. The evidence was insufficient to establish the speed of either vehicle. Constable Falkenham concluded that Dean Richard was not attempting to stand and was likely lying on the ground when he was hit by the Kelly vehicle because of blood stains on the lower part of the bumper and because there was no damage to the hood of the car or in the grill area.

Although Constable Falkenham may have done some things differently if he had attended the accident scene, the investigation that night was thorough and provided him with all the necessary evidence. Additional staff would likely not have made a difference.

7. *Why was an autopsy not performed?*

Dr. Vernon Bowes gave evidence at the Inquiry. He is the Chief Medical Examiner and he provided evidence regarding the operation of his office generally. He was not specifically involved in the Richard matter. He commented on the question regarding an autopsy.

Dr. Bowes explained the difference between a forensic autopsy and a clinical autopsy. A clinical autopsy looks for disease mechanisms or mechanisms that result in death. The forensic autopsy looks at the "manner of death" as well as the "cause of

death". Dr. Bowes stated that a forensic autopsy might have been able to distinguish between the injuries sustained in the first and second accidents. Dr. Ozere, the medical examiner who examined Dean Richard, felt differently and in his opinion an autopsy would not have been able to determine which injuries were caused by what accident.

At the time of Dean's death, there were no guidelines for medical examiners, but Dr. Bowes has since developed a procedure and policy manual. Under current practices there would have been a forensic autopsy in Dean Richards's case. That was not the practice in 1996.

8. *Why wasn't Jane LeFresne charged with speeding or dangerous driving?*

The accident re-constructionists could not determine the speed of either vehicle from the evidence available to them. There was imprecise evidence from some of the passengers in the LeFresne vehicle that Ms. LeFresne was driving over the speed limit. Ms. LeFresne told police she was driving at between 100 and 120 km per hour.

Madeline Driscoll, a prosecutor, gave evidence at the Inquiry. It was her testimony that there was insufficient evidence to convict under the *Motor Vehicle Act*. If Ms. LeFresne had given a cautioned statement, admitting speeding, conviction might have been possible but unlikely. None of the officers involved suggested that what happened that night would support a conviction for dangerous driving. As pointed out by Mr. Duncan in his submissions, a witness' statement regarding the speed of the vehicle would be opinion evidence and of little weight in a criminal proceeding.

9. *Why were the Richards not allowed to see the police accident report and statements collected by the police?*

Mrs. Richard gave evidence that the inability to see the actual information in the police file was one of the most troubling issues. They hired a lawyer who advised them generally and made an application under the *Freedom of Information and Protection of Privacy Act* but only received an abstract summary of the information.

Constable Falkenham met with the Richards a few months after the accident. He did not share copies of documents but did a detailed summary of what was in the file. A year later they met with the Chief of Police and three deputy chiefs. They attempted to answer as many questions as they could. They could not provide copies of statements as was the practice with all police forces. The Richards were not satisfied with oral reports and choose not to commence a civil action.

The statements were entered as exhibits in this inquiry and provided no additional information for the Richards. They developed a suspicion of a cover-up that, given their circumstances, no amount of evidence would dispel.

4. *Whether or Not Police and Public Safety Services was the Appropriate Body to Conduct a Review or Investigation of the Matter*

The Richards questioned the role of the Police and Public Safety Services and suggested that former police officers should not be in investigating "their own". This led to a number of questions and issues that became integral part of the investigative stage of this inquiry and led to further detailed evidence from members of Police and Public Safety Services and the Department of Justice generally.

The division of Police and Public Safety Services within the Department of Justice was created in 1992 in response to certain recommendations following the Marshall Inquiry. It was charged with the task of preparing a "policing plan" for the province and to do audits of municipal police departments. The division would also conduct case management studies and file reviews. The division's authority to investigate the Richard matter came from Section 3(2) of the *Police Act:*

> *... the Solicitor General may order an investigation into any matter relating to policing and law enforcement in the province.*

The Minister of Justice asked Robert Barss, the Executive Director of Police and Public Safety Services to conduct such an investigation and Mr. Barss delegated that assignment to David Camp. Mr. Camp conducted a review of the file rather than an investigation. He met with senior management at the Halifax Regional Police and reviewed portions of the file materials. He met with the Richards and spoke to them on the phone several times. He reported to Mr. Barss.

a) Conclusions regarding roof lights.

In his first report dated November 21, 1996 Mr. Camp writes at p.6:

> *"The delay in turning on the roof lights was obviously minimal and while the delay was unfortunate, it was not in my opinion more that a momentary lapse in judgment which occurred under unusual circumstances."*

In his report dated December 3, 1996 written in respect to the same issue:

> *"The sole question relative to Constable MacDonald is simply whether or not he could have avoided or lessoned the consequences of this accident if he had turned his roof lights on immediately upon encountering the LeFresne vehicle on its roof.*
>
> *This is a question that is obviously difficult to answer without having actually been at the scene to observe how soon after MacDonald stopped his vehicle he was passed by the Kelly vehicle. It cannot be denied that this lapse on procedure was a factor in this incident, even if the magnitude cannot be positively established.*

In his report dated January 15, 1997 he stated:

> *... It is evident that the police car roof lights were not turned on instantly, and it is accepted that the Kelly vehicle passed the police vehicle before the roof lights were turned on.. It is difficult to recreate this scene to such a degree that the position of both vehicles prior to the impact of the Kelly's vehicle with the body on the highway can be positively established. Therefore one can only assume that the roof lights would have most likely caused Kelly to stop prior to passing the police vehicle. Consequently, Constable MacDonald, no matter how well intentioned he may have been on first calling for help, did not practice good accident scene protection.*
>
> *The question here is whether Constable MacDonald's less than perfect judgment constitutes a violation of police procedure to a degree that a charge under the Police Act could be proven. This can only be determined by filing an official complaint under the Police Act provisions and subsequent investigation by the Nova Scotia Police Commission.*

These were all internal documents of the Police and Public Safety Services Division and were not prepared with the intention of releasing them to members of the public, including the Richards.

Complaints to the Nova Scotia Police Commission must be filed within 30 days of the date of incident (July 6, 1996) and are absolutely barred after six months. In addi-

tion, complaints to the Nova Scotia Police Commission must be filed by the person directly affected by the police action. The Richards were clear throughout. They did not want to file a complaint against Constable MacDonald and did not consider this route until after the 6 month limitation period had expired.

It is also clear that the Richards were advised by Mr. Camp on more than one occasion of their option to file a complaint. He also made them aware of the 6 month limitation period.

Mr. Barss reviewed the January report and on his copy wrote "rewrite or reword" next to the paragraph quoted above. He stated at the Inquiry that he wrote those words as a trigger to himself to raise the matter with Mr. Camp and seek clarification. It was not an address to Mr. Camp, who confirmed he did not see these words. Mr. Barss stated that the paragraph was ambiguous and conflicted with Mr. Camp's earlier reports. He discussed this with Mr. Camp during the revision process and in preparation of the final report.

In his final report dated April 18, 1997 Mr. Camp writes:

> *... it is evident that the police car roof lights were not turned on instantly, and it is accepted that the Kelly vehicle passed the police vehicle before the roof lights were turned on. It is difficult to recreate the scene to such a degree that the position of both vehicles prior to the impact of Kelly's vehicle with the body on the highway can be positively established.*

> *It appears that Constable MacDonald's first instinct when encountering the accident scene was to call for help, and that the activation of the roof lights was a secondary action, which one can speculate that the sequence of these two actions were a factor in this situation, the decision by Constable MacDonald to call for assistance before doing anything else would not, in my opinion, constitute a breach of discipline. In light of the fact that there was no formal complaint under the Police Act filed, pursuit of disciplinary sanctions in this case is not possible in any event.*

This was the report prepared for the Minister of Justice. The Minister provided a copy to the Richards.

It is clear that Mr. Camp's opinion and recommendations changed as his reports were developed. The issue of the roof lights developed from it being a "delay" as a result of a momentary lack of judgment to a lapse in procedure that could have caused the Kelly vehicle to stop and was not good accident scene protection; to a mere decision to call for help before turning on the lights and purely speculation as to the effect it would have had. The final report also concluded with Mr. Camp's opinion that there was no breach of discipline.

One certainly gets the impression that as the time ran out for a formal complaint, Mr. Camp and his office had to address the discipline issue themselves. The December report suggests that there could be discipline issues but the pursuit of that under the current *Police Act* was the decision of the Richards. The Richards decided not to pursue it and left the matter in the hands of Police and Public Safety Services. The January report was prepared right at the time the limitation period was expiring. It had to be revised

and it was ambiguous. The complaint process was no longer available and it was therefore incumbent on Mr. Camp to give an opinion on whether there was a discipline issue.

I conclude that Mr. Camp's report was a "work in progress" throughout the time in question. Mr. Barss involved himself as required and the words "rewrite or rephrase" were notes to himself and not a direction to Mr. Camp. Mr. Camp had to give an opinion on the discipline issue and he concluded that Constable MacDonald did not commit a disciplinary default. His opinion is supported by the findings of this Inquiry.

a) Would a public complaint have been more appropriate or more efficient than an investigation by Police and Public Safety Services?

Mr. Camp gave a statement to Mr. Squires who was investigating this matter on behalf of the Inquiry. In his statement he said that he had concerns about doing the investigation from the beginning. He felt that Police and Public Safety Services did not have a clearly defined operational procedure and felt that it fell more squarely under the authority of the Nova Scotia Police Commission. He believed that the Police Commission has clear guidelines and a set procedure to deal with members of the public.

It became clear from the evidence that Mr. Camp conducted a file review, rather then an investigation of the matter. He did not interview officers or other witnesses involved but relied on the perspective of senior managers and a review of the file materials. He did conduct a proper file review as directed by Robert Barss. He did not complete an independent investigation nor was he requested to do so. He noted deficiencies regarding note-taking by the officers involved and questioned the quality of the statements. He had concerns about the officers direct involvement while taking those statements and investigating the accident. Mr. Camp had concerns and came to certain con-

clusions as if he was conducting a review or audit. This is what he was trained to do and this is what he believed was the mandate of his office.

In the meantime it is fair to say that the Richards, or any member of the public, would believe that Mr. Camp was conducting an independent investigation of the matter.

There are distinct differences between the function of the Nova Scotia Police Commission and the Police and Public Safety Services Division of the Department of Justice, and between their individual approach to particular files. There should be no overlap and it should be clear to each body which matters belong in their original jurisdiction. The Police Commission primarily deals with members of the public while Police and Public Safety Service deals primarily with police departments. The division of Police and Public Safety Service does deal with members of the public on a fairly regular basis but when there is an issue of discipline or a question of wrongdoing the file should be directed to the Police Commission.

The question is not one of efficiency or capability or even appropriateness. When there is an issue regarding police conduct the public will demand a process that is transparent and at arms length from the police.

Police and Public Safety Services is charged with police performance generally and the effective delivery of police services. When they deal with members of the public there should be a process in place that is clear and easily understandable. Members of the public should understand the function of Police and Public Safety Services; and what ability it has and what it's limitations may be. If there is a question of police conduct the file should be referred to the Nova Scotia Police Commission. Likewise if during its in-

vestigation the Commission uncovers issues dealing with the quality of service the matter should be referred to the Police and Public Service Division.

The *Nova Scotia Police Act* as it deals with civilian oversight of police conduct is quite effective. When one examines the process in other provinces and other comparable Canadian models, the Nova Scotia legislation is more transparent and has more "teeth" then most. There is a clear separation between the oversight body and the police. It deals at "arms length" with the provincial government.

There are two areas under the *Nova Scotia Police Act* which fall short of the Canadian norm and which do not serve the interest of the public or the police. The absolute limitation period of six months is unworkable and unfair. The legislation needs to be examined in this regard. Second, there should be some mechanism for referrals to the Commission when questions of conduct come to the attention of police departments, government departments and other agencies who regularly deal with police. The complaint process should not be solely dependant on the ability of the person affected to become involved. Nor should the process be substantially different when complaints come from sources other than those from individuals directly affected.

(c) Whether the Richard's situation could have been dealt with more efficiently under Section 6 of the Police Act Regulations.

Section 6 of the Regulations made pursuant to the Police Act provides as follows:

> 6 (1) A member of the public may make a complaint alleging the failure of a police force itself to meet public expectations to
>
> (a) the complaints officer of the police force or any other member of the police force;
>
> (b) the board; or
>
> (c) the Commission.
>
> (2) The person to whom a complaint is made shall
>
> (a) record the complaint in Form 5 of the Schedule; and
>
> (b) forward a copy of the complaint, as recorded on Form 5, to the chief officer of the police force, the chair of the board and the Commission.
>
> (3) The chief officer or the chairman of the board, as agreed between them, shall review the complaint and inform the complainant and the Commission in writing of their decision.
>
> (4) A decision made pursuant to subsection (3) is not subject to a review by the Review Board.
> Section 6 replaced: O.I.C. 94-646, N.S. Reg. 135/94.

Mr. Garry Mumford, the Director of the Nova Scotia Police Commission, gave evidence at the Inquiry. It was his opinion that this Section was designed to allow members of the public to lay a complaint regarding the policies, procedures or operation of

the police department. He pointed out that in the end result the decision of the Chief and Chair of the local Board of Police Commissioners would be final with no appeal to the Nova Scotia Police Review Board. The Police Commission has very little direction or involvement with these types of "complaints."

If there is to be a clear separation of the functions of the Nova Scotia Police Commission and the Police and Public Safety Services Division and if the Police and Public Safety Services Division develops a clear protocol for dealing with members of the public then this kind of complaint really belongs with Police and Public Safety Services Division.

Given the level of attention the Richards were afforded by the Police and Public Safety Services Division, it is likely that a Section 6 complaint lodged with the Nova Scotia Police Commission would not have brought about a more effective result.

A complaint pursuant to Section 7 of the *Police Act* Regulations triggering an investigation and subsequent disposition by the Nova Scotia Police Commission may have been more effective, more transparent and speedier. It could have provided a mechanism for the Richards to express their concerns to an independent body and it would have provided a forum for members of the police force to explain their actions and clear their names.

The Nova Scotia Police Commission should deal exclusively with public complaints and its ability to perform its mandate should be bolstered by examining the question of the limitation period and the restriction of complaints to those directly involved.

Conclusions

Dean Richard died as a result of a very tragic automobile accident at a time when his adult life was just beginning. He left behind a devoted family who will never be able to fill the void left by his absence.

From the time that they learned of the accident the Richards sought answers to numerous questions. Their quest for complete knowledge often led them down paths which created new questions. The Richards did not follow the paths that civil litigation or a public complaint could have taken them. Those options may have answered some questions and may have created others. Instead they decided to pursue the matter through the Department of Justice commencing with Police and Public Safety Services and ending with the Minister.

The investigation and Inquiry ordered by the Minister provided a thorough airing of the issues. All questions were independently investigated and evidence was presented and tested. The Richards were involved during the investigation and heard all of the evidence at the Inquiry. The process itself should give them some comfort.

The following are my findings based on the evidence heard, exhibits filed and submissions of counsel:

(1) All officers involved in the investigation and subsequent review of the accident acted professionally and they did so without bias, favour or prejudice to any party.

(2) The case was well managed from traffic control, attending to those citizens involved, providing a high level of first aid and proper accident reconstruction.

(3) Constable MacDonald acted reasonably in making a split second decision regarding the protection of the scene and the people on the roadside.

(4) Constable MacDonald cannot be faulted for calling for assistance first and activating his roof lights second. Emergency vehicles arrived within seconds.

(5) Constable MacDonald happened upon the accident and was therefore a witness. He acted appropriately but should not have been involved further with the investigation. His involvement did not negatively affect any outcome but, with hindsight, he was not in a position to take statements or assist with other aspects of the investigation.

The Halifax Regional Police have addressed this issue by implementing a SOPP dealing with "Critical Incident Stress Management".

(6) Assistance given by all officers at the scene was exemplary.

(7) The accident reconstruction was carried out appropriately that night and in the days following.

(8) The fact that Sergeant Fox knew the LeFrance family had no impact on the way he, or other officers, performed their duties.

(9) The quality of some officers note books and statements taken left something to be desired. The Halifax Regional Police have addressed this issue and the Commission is satisfied that the matter will be monitored routinely.

(10) There was insufficient evidence to charge the driver of the Toyota with speeding or dangerous driving. The police took proper steps in coming to the conclusion not to lay charges.

(11) There was insufficient evidence for any of the officers involved to administer the Alert test or to demand a Breathalyzer test.

(12) The driver of the MacDonald vehicle had not consumed any alcohol that evening. The driver of the Toyota consumed one drink of alcohol several hours prior to the accident.

(13) The eyesight of the driver of the MacDonald vehicle was not a contributing factor in either the accident or the death of Dean Richards.

(14) A forensic autopsy should have been carried out on Dean Richard and the Medical Examiner's office has taken steps to ensure a forensic autopsy would be mandatory in a similar circumstance today.

(15) The Police and Public Service Division of the Department of Justice had the jurisdiction and the ability to investigate the matter at the request of the Minister of Justice.

(16) Robert Barss properly accepted the assignment and assigned it to David Camp. Mr. Camp was fully capable of completing the task.

(17) Although there was no protocol or procedure in place Mr. Camp completed the task professionally and his conclusions were supported by the evidence.

(18) Mr. Camp completed a review or an audit rather than a full investigation. This was a reasonable approach in the circumstances.

(19) Mr. Camp's initial internal reports questioned whether Constable MacDonald's actions could have been a disciplinary matter. Once the time limitation for filing a disciplinary complaint expired, Mr. Camp provided his own opinion on that issue. Mr. Camp concluded that in his opinion Constable MacDonald's actions did not warrant disciplinary action.

(20) Mr. Barss' comments "rewrite/rephrase" were notes to himself and referred to ambiguities within the report and conflicts with other earlier reports.

Recommendations

(1) That the internal design of police vehicles be examined with a view to considering whether a single switch to activate emergency equipment would be possible and advisable.

(2) Each police department would consider assigning one contact person to deal with family when serious questions or concerns arise. This person should be trained in conflict management and have access to all pertinent information.

(3) Appropriate procedures and protocols be developed by Police and Public Safety Services to assist with their approach to members of the public in a consistent, timely manner.

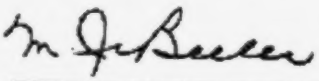
(4) The person with Police and Public Safety Services assigned as the public contact person have training in conflict resolution and mediation.

(5) The *Police Act* be amended to provide clear distinction between the role of Police and Public Safety Services and the Nova Scotia Police Commission. Consideration should be given to restricting the Police Commission's role to disciplinary matters.

(6) The *Police Act* should be amended to allow matters regarding police discipline issues to come to the Nova Scotia Police Commission from other agencies, government departments, Boards and Commissions without requiring the consent of a person directly affected.

(7) That steps be taken to review the time limitations provisions of the *Police Act* with a view to permitting discipline matters to be dealt with by the Police Commission to go forward in situations where the six month period is clearly not acceptable.

This report, together with it's findings and recommendations, was presented to the Honourable Michael Baker, Q.C., Minister of Justice for the province of Nova Scotia on the 5th day of July, 2005.



M. Jean Beeler
Chair
Commission of Inquiry

Appendix

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Our File Number

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Nova Scotia Police
Commission

MINISTERIAL DIRECTION PURSUANT TO SECTION 8 OF THE *POLICE ACT. R.S., c. 348, s.1.*

DIRECTION TO INQUIRE

I, Michael G. Baker, Minister of Justice and Attorney General, in and for the Province of Nova Scotia do hereby direct the Nova Scotia Police Commission to inquire into and report to me, as soon as is practicable, on matters relating to the death of Dean Richard resulting from a traffic accident or accidents which occurred on Highway #102 in Halifax Regional Municipality on or about July 7, 1996.

SCOPE OF INQUIRY

I further direct that the scope of this inquiry shall be as follows:

- inquire into, investigate, and report upon any external or internal investigations, analyses, reviews, assessments, evaluations, carried out by the Halifax Regional Police Service, or any member or employee thereof, and which are, directly or indirectly, related to the death of Dean Richard;

- inquire into, investigate, and report upon all investigations, analyses, reviews, assessments, evaluations and audits carried out by any component of the Government of Nova Scotia, or any employee thereof, and which are, directly or indirectly, related to the death of Dean Richard;

- inquire into, investigate and report on matters described in sub-section 8(2) (a) & (b) of the *Police Act* and which the Commission determines is necessary for the purposes of this inquiry and which are, directly or indirectly, related to the death of Dean Richard.

- all of the applicable provisions of the *Police Act. R..S., c.348, s.1* and the *Public Inquiries Act. 1992, c.28, s.5* shall be available to the Commission in the discharge of its duties and functions during the course of this inquiry.

Dated this 3rd day of March, 2000, in Halifax Regional Municipality, in the Province of Nova Scotia.

Honourable Michael G. Baker, Q.C.
Minister of Justice and Attorney General

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Nova Scotia Police Commission Policy

Regarding Legal Funding

Dean Richard Inquiry

Pursuant to the *Police Act*, persons likely to be directly affected by the investigation or inquiry shall be entitled to reasonable legal fees for their necessary representation in the course of the inquiry.

Any person seeking payment of the cost of reasonable legal fees must satisfy the Commission that they will likely be directly affected.

Witnesses other than those who may be directly affected may, if they wish retain counsel to conduct their own direct examination. Otherwise, such examination will be conducted by Commission counsel. There shall be no compensation for witness counsel unless they can satisfy the Commission that they will be directly affected.

For those individuals that qualify, legal services shall be paid in accordance with the following:

Senior counsel (10 plus years practice): usual hourly rate to a maximum of $175.00 per hour;

Intermediate counsel (5-9 years practice, inclusive): usual hourly rate to a maximum of $150.00 per hour;

Junior counsel (less than 5 years practice): usual hourly rate to a maximum of $125.00 per hour;

Articled clerk: usual hourly rate to a maximum of $75.00 per hour;

Accounts will be submitted to the Commission upon conclusion of the inquiry. The number of hours spent will be subject to review by the Commission, and may be reduced if the Commission views the hours spent are excessive or unjustifiable.

COMMISSIONER

M. Jean Beeler - Chair

M. JEAN BEELER is a lawyer practicing in Halifax, Nova Scotia. She has been a member of the Canadian Barristers' Association and the Nova Scotia Barristers' Society since 1981. Ms. Beeler is a founding member of the Canadian Association for Civilian Oversight of Law Enforcement of Police and served as the President for two terms. Ms. Beeler also was Vice President of the International Association for Civilian Oversight of Law Enforcement. Ms. Beeler was appointed as Chair of the Nova Scotia Police Commission in 1995 and served six years in that capacity.

COUNCIL AND PARTIES TO THE PROCEEDINGS

Ms. Jean McKenna for the Commission
Mr. David Fisher for David Camp
Mr. Patrick Duncan and Elizabeth Buckle for the Halifax Regional Police
Ms. Sandra Arab-Clarke for Deputy-Chief Robert Barss

COMMISSION COUNCIL & STAFF

Jean McKenna
Council to the Commission

JEAN MCKENNA practices law in Halifax, Nova Scotia, specializing in the areas of Criminal and Civil Litigation. Ms. McKenna sat as Alternate Chairperson of the Nova Scotia Police Review Board. She also conducted file adjudications for the Nova Scotia Compensation for Victims of Institutional Abuse. Ms. McKenna is active with a variety of groups and organizations in the community, and has been involved with the Nova Scotia Medical Legal Society, Eastern Shore Safe House Association, Elizabeth Fry Society, and Community Planning Association of Canada.

E. Garry Mumford
Director, Nova Scotia Police Commission

GARRY MUMFORD is the Director of the Nova Scotia Police Commission. Prior to his position of Director he was the Head Investigator for the Commission. Mr. Mumford has a long and distinguished career in policing. In 1968 he joined the Royal Canadian Mounted Police and was posted in various locations within the Maritimes. He has worked in numerous positions as an RCMP officer including general investigations, drug section, and, at his retirement, he was in charge of the Division's Criminal Intelligence Unit as well as the Metro Joint Task Force on Prostitution.

Dennis Squires
Investigator, Nova Scotia Police Commission

DENNIS SQUIRES had been contracted by the Nova Scotia Police Commission as an investigator from 1998 until 2003. Prior to this time he had been employed by the Royal Canadian Mounted Police for approximately thirty three years. During his tenure he had served in a number of various positions including that of an investigator and investigator supervisor. Also, he had been assigned to an Internal Investigation Unit which specialized in investigating Public Complaints and Code of Conduct Investigations, against employees. This particular background provided a degree of experience which was considered an asset while conducting Public Complaint Investigations under the purview of the Nova Scotia Police Commission.

Pamela J. Little (Whittaker)
Coordinator, Nova Scotia Police Commission

Norma MacDonald
Secretary, Nova Scotia Police Commission

OPENING REMARKS BY M. JEAN BEELER

In the early morning hours of July 7th, 1996, 22 year old Dean Richard of Lower Sackville, Nova Scotia, was critically injured as a result of a tragic motor-vehicle accident on Highway 102 near the exit to Highway 103 located in the Halifax Regional Municipality.

Dean had been a passenger in a vehicle which overturned and he was thrown on to the highway near the median. Within a very short time span another vehicle driving by the accident scene struck Mr. Richard and he became entangled in the undercarriage of this vehicle which dragged him some distance.

Sadly, on the following day, Dean Richard died as a result of his injuries.

Shortly thereafter, his parents, Charles and Karen Richard, starting seeking answers to many questions they had concerning what actually happened at the accident scene and the follow-up by Halifax Regional Police investigation.

In their view, the answers they received created more questions than answers and they then asked the Minister of Justice to order a Public Inquiry.

On the 29th of March, 2000, pursuant to Section 8 of the Police Act, the Honourable Michael G. Baker, Minister of Justice and Attorney General for the Province, directed that the Nova Scotia Police Commission inquire into and report to him as soon as practical on matters relating to the death of Dean Richard resulting from a traffic accident or accidents which occurred on Highway 102 on or about July 7th, 1996.

Minister Baker further directed the scope of the Inquiry would be to inquire into, investigate and report upon external or internal investigations, analysis, reviews, assessments, evaluations carried out by the Halifax Regional Police Service or any member or employee thereof and which are directly or indirectly related to the death of Dean Richard.

To inquire into, investigate, report upon all investigations, analysis, reviews, assessments, evaluations and audits carried out by any government, any component of the Government of Nova Scotia, or any employee thereof, and which are directly or indirectly related to the death of Dean Richard.

And to inquire into and investigate and report on matters described in subsection 8(2)(a) and 8(2)(b) of the Police Act in which the Commission determines as necessary for the purposes of this Inquiry and which are directly or indirectly related to the death of Dean Richard.

Section 8(2)(a) of the Police Act allows the Police Commission to investigate, inquire into and report upon the conduct of or the performance of duties of any chief of police, other police officer, constable, special constable or municipal by-law enforcement officer.

Section 8(2)(b) of the Police Act allows the Police Commission to investigate, inquire into and report on the administration of any police force.

The request to hold a public inquiry pursuant to the Police Act is open to the Minister of Justice, but is not often used.

The issues that will be addressed are serious ones. The Nova Scotia Police Commission, after receiving the request, decided on a course of action to complete the request.

Dennis Squires was contacted to lead the investigation and Jean McKenna was engaged as counsel.

We decided that as the evidence would come before me, as Chair for the Nova Scotia Police Commission, I would remain removed from the investigation and the collection of evidence. Jean McKenna likes to refer to me as the "empty kettle." Although I see that some of it has arrived this morning.

My staff informs me that in excess of 40 people were interviewed, either in person or through the submissions of written responses to questions posed by our investigators. Hundreds of Page A-s of documents related to this matter have been obtained, reviewed and catalogued by Commission staff, all of which has been disclosed to the various legal counsel here today.

At the end of these proceedings, as noted earlier, I will be completing a detailed report which will consist of the evidence, analysis, conclusions and recommendations to the Minister of Justice.

I'd like to take a moment just to introduce to the public and people here the people who have been involved and will be involved in this Inquiry.

The Director of the Police Commission, Garry Mumford over here, has coordinated the efforts of the investigation and the preparation for these public hearings.

The Executive Secretary is Pam Little who has compiled and distributed the documents.

Dennis Squires, the investigator, was appointed Investigator for the Inquiry and, together with and under the direction of Garry Mumford, has interviewed witnesses and examined documents.

These members of the Inquiry staff have worked under the direction of Jean McKenna, who is, as I've mentioned, legal counsel. Ms. McKenna's principal task is the presentation of witnesses and exhibits. As well, she is advisor and legal counsel to the Commission and to the Inquiry.

The facilities here, the proceedings are being recorded and we'll assess the need for transcription services as we proceed.

These hearings, of course, are open to the public and various forms of media are welcome.

Who is represented here today? Mr. Patrick Duncan and Elizabeth Buckle represent the Halifax Regional Police and its membership. David Fisher represents David Camp who is a former employee of the Police and Public Safety Services. And Sandra Arab-Clarke represents Robert Barss, former employee of the Police and Safety Services.

Richard's Inquiry Witnesses & Dates Heard

November 13, 2001

JANE LEFRESNE
LORI MCDONALD
SHELLY KNAPKIN
SHANE MAILMAN
KIM MACDONALD
JEFFREY KELLY

November 15, 2001

CHRISTA RICHARDSON'S statements read into record by MS. MCKENNA (Witness deceased)
CST. MARK MACDONALD
CST. TOM THOMPSON
CST. MARK YOUNG
CST. TOM SHANNON (officer's notes & questions presented to the officer by Commission Investigator read into the record by Jean McKenna. Officer in East Timor at the time of the Inquiry).

November 16, 2001

CST. TREVOR LASSALINE
S/SGT. DONALD CLIFFORD FOX
SGT. BARB SAUNDERS
SUPERINTENDENT FRANK GILBERT BEAZLEY
MADELYN DRISCOLL
CST. GARY GALLANT

November 19, 2001

CST. GARY GALLANT
CST. RON FALKENHAM
JEAN WHALEN
S/SGT. WILLIAM HOLLIS
VINCENT MACDONALD
KAREN RICHARD

November 20, 2001

DR. VERNON F. BOWES
KAREN RICHARD
C.J. (CHARLES) RICHARD
DAVID CAMP

November 21, 2001

DAVID CAMP

November 22, 2001

DR. CHRIS OZERE
KEVIN MCLELLAN
SGT. ROBERT COOK

November 23, 2001

WILLIAM MALCOLM

November 28, 2001

JUDGE WILLIAM MACDONALD
DEPUTY CHIEF ROBERT BARSS

December 4, 2002

KATHLEEN WATERS
GARRY MUMFORD

EXHIBIT LIST "A"

A-1 - N.S. Police & Public Safety Involvement

A-1-1	Initial contact Mr. Barss and HRP - 1996, November 18
A-1-2	Camp report - 1996 - November 21
A-1-3	Barss letter/HRP - 1996 - November 27
A-1-4	Camp report - 1996 - December 3
A-1-5	Camp memo/Barss - 1997 January 8 /report 1996 December 3
A-1-6	Camp report - 1997 January 15 (2 copies)
A-1-7	Camp memo/Barss - 1997 January 15
A-1-8	Camp memo/Barss - 1997 January 24
A-1-9	Camp memo/Barss - 1007 - February 5
A-1-10	Camp report/Barss - 1997 April 18
A-1-11	Camp memo/Barss - 1998 February 5
	Premier MacLellan/Richard unnsigned/undated
A-1-12	Gillis note/Barss - 1998 - January 23 e-mail Blanchette/Wilma - 1998 January 22 (penned notes) Gillis note/Barss - 1998 January 21
A-1-13	Camp report/Parlee - 1998 January 18 (2 copies)
A-1-14	Gillis note/Beaver - 1999 September 16 (penned notes)
A-1-15	Phone list
A-1-16	Penned notes - phone numbers (6 pages)
A-1-17	Dennis Kelly note/Cuson - 000 January 27
A-1-18	Note Dennis Kelly/Ray Cuson - 00 February 7

EXHIBIT LIST "A"

A-2 Elected Officials Involvement

A-2-1	Abbass letter/Rock - 1996 - September 30
A-2-2	Sec to Minister letter/Richard - 1997 - February 12 Richard letter - 1997 February 05 Unsigned letter Abbass/Richard (penned note) Unsigned letter Abbass/Richard - copy Barss letter/Richard - 1997- February 07 (2 copies) Unsigned draft letter Camp/Richard - 1997 - February 05
A-2-3	Waters Note/Wm. MacDonald - 1997 April 03 Unsigned Letter Abbass/Richard Sec. To Minister letter/Richard - 1997 - March 03 (Penned note includes DM's further questions) Holm letter/Abbass - 1997 March 17 Barss briefing note/Wm. Macdonald - 1997 March 12 MacDonald note/Barss - 1997 March 10 (penned notes) MacDonald note/Barss - 1997 February 13
A-2-4	Penned note Jody Unsigned draft letter Mitchell/Richard
A-2-5	Penned note kit/Deputy - 1997 - April 09 Penned note - talk to DM - 1997 - April 14 Richard letter/Abbass - 1997 February 05
A-2-6	Mitchell letter/Richard - 1997 May 09
A-2-7	Hartlen e-mail/MacDonald - 1997 May 05 Mitchell letter/Holm - 1997 May 13
A-2-8	Mitchell letter/HRPS - 1997 June 26 (3 copies)
A-2-9	Leahey letter/Mitchell - 1997 July 29 Letter Min. Justice/Richard 1997 - May 09 (page 1 only) Gillis note/Barss - 1997 July 28
A-2-10	Leahey letter/Mitchell - 1997 August 20 Leahey letter/DOJ - 1997 August 20 Mitchell letter/Leahey - unsigned

A-2 **Elected Officials Involvement** (Cont'd)

A-2-11
HRPS letter/Richard (with penned notes) - 1999 - September 22
Gillis note/Barss - 1997 September 25
Min. Justice letter/Leahey - (page 1 only) - 1997 August 28
HRPS letter/Richard - 1997 - September 22

A-2-12
Richard letter/HRPS - 1997 Novembver 10

A-2-13
Premier MacLellan letter/Richard - 1997 Nov. 20
HRPS letter/Mitchell - 1997 November 19

A-2-14
Mitchell letter/HRPS - 1997 June 26
Leahey letter/HRPS - 1997 September 26
HRPS letter/Leahey - 1997 October 10
Richard letter/HRPS - 1997 November 10

A-2-15
Richard letter/Premier MacLellan - 1998 January 15

A-2-16
Premier MacLellan letter/Richard (unsigned/undated)
Wilma/email 1998 - March 30
Premier MacLellan letter/Richard (unsigned/undated) penned notes
Premier MacLellan letter/Richard (unsigned/undated)
Premier MacLellan letter/Richard - 1998 April 21
E-mail Wilma - 1998 March 31

A-2-17
Richard letter/W-5 - 1998 May 11

A-2-18
MacKay letter/Premier MacLellan - 1998 June 15
Blanchette note/Dorothy - 1998 June 29
Gillis note/Barss - 1998 July 07
Gillis note/Barss 1998 July 07 (penned note)

A-2-19
Premier MacLellan letter/MacKey (unsigned/undated)
Gillis note/Barss - 1998 July 07
Kim Blanchette note/Dorothy - 1998 June 29
MacKay letter/Premier MacLellan - 1998 June 15 (penned notes)
Premier MacLellan letter/Richard - 1998 April 21 (unsigned)
Richard letter/Premier MacLellan - 1998 January 15

A-2-20
Premier MacLellan letter/MacKay - 1998 July 20

A-2-21
Richard letter/Smith - 1998 November 04
Gillis note/Kelly - 1998 November 20 (penned note)
Fax sheet - 1998 March 03
Fax cover sheet - 1998 March 03

A-2 **Elected Officials Involvement** (Cont'd)

A-2-22	Richard letter/Premier MacLellan - 1998 January 15
A-2-23	Scott letter/Smith - 1998 November 18 Assembly Debates - 1998 October 26 Fax cover sheet - 1998 November 26 Gillis note/Paulette - 1998 December 2 (penned note) Fax cover sheet - 1998 November 26 Scott letter/Smith - 1998 November 18 Assembly Debates - 1998 October 26 Gillis note/Dennis Kelly - 1998 November 27 (penned note)
A-2-24	Harrison letter/Scott (unsigned/undated)
A-2-25	Harrison letter/Scott - 1999 February 10
A-2-26	Harrison letter/Richard (unsigned/undated)
A-2-27	Harrison letter/Richard - 1999 February 11 Gillis fax cover sheet/Dennis Kelly - 1999 March 1 (penned notes) Note dated 1999 March 1 Harrison request for meeting
A-2-28	Letter Harrison/Richard - 1999 February 11
A-2-29	Paulette d'Entremont fax sheet/Richardson - 1999 March 3 Paulette d'Entremont fax sheet/Richardson - 1999 March 3
A-2-30	Richard letter/Baker - 1999 September 15
A-2-31	Baker letter/Richard - 1999 November 2
A-2-32	Baker letter/Richard - 1999 December 20
A-2-33	Gillis note/Keefe 1999 December 30
A-2-34	Premier MacLellan letter/Richard - Draft
A-2-35	Fardy Report - 1999 October 9 Fardy letter/Richard - 1977 July 4 Traffic accident reports (2)
A-2-36	Baker draft letter/Richard

A-2 **Elected Officials Involvement** (Cont'd)

A-2-37	Daily News obituary
A-2-38	Assembly Debates - 1998 October 26
A-2-39	Fatality Inquiries Act
A-2-40	Fatal Injuries Act
A-2-41	Correspondence tracking report (8 pages)
A-2-42	Richard letter/Baker - 1999 November 8 MacKay letter/Premier MacLellan - 1998 June 6 Leahey letter/Mitchell - 1997 July 23 MacKay letter/Richard - 1998 June 19 Baker letter/Richard - 1999 November 2
A-2-43	Harrison letter/Richard - 1999 February 11
A-2-44	Nova Scotia Police Act
A-2-45	Wojcik briefing note/Baker
A-2-46	Handwritten notes - Dean Richard Draft ministerial direction
A-2-47	Camp Report/Barss - 1997 April 18 HRPS letter/Richard - 1997 September 22
A-2-48	Ministerial direction - Ministerial Inquiry - 2000 March 29 Letters to NSPC, Richards, HRPS Internal notes tracing file location
A-2-49	Penned note to Mr. & Mrs. Richard - 1997 June 04 Action Memo to Minister from Emmie - May 28
A-2-50	- Unsigned letter from Premier MacLellan with penned note referrring to Dave Camp. - E-Mail from Wilma Jokela re: Bob Barss requested to draft response for Premier 1998 March 30.

- E-Mail from Kim Blanchette - Penned note referring to Bob Barss preparing response.
- Copy of Letter dated 1998 Jan 15 from Richard family.

A-2-51 Briefing note for Minister Smith Prepared by Michele McKinnon - 1998 December 02.

A-2-52
- E-Mail from Gordon Gillis dated 2000 January 27, containing an overview of some file details.
- E-Mail from Gordon Gillis dated 2000 January 27 regarding information from Mrs. Richards.

EXHIBIT LIST "B"

Documents held by Richard Family

B-1-1	Newspaper clipping "man thrown from car dragged Along road"
B-1-2	List of actions take by Richards
B-1-3	Letter to Abbass - 1997 February 5
B-1-4	Camp report/Barss - 1997 April 18
B-1-5	Leahey letter/HRPS - 1997 August 27
B-1-6	Leahey letter/Shane Mailman - 1997 August 27
B-1-7	Mitchell letter/Richard - 1997 August 28
B-1-8	List of questions posed to Chief of Police Vince MacDonald
B-1-9	HRPS letter/Richard - 1997 September 22
B-1-10	Leahey letter/HRPS - 1997 September 26
B-1-11	HRPS letter/Leahey - 1997 October 1
B-1-12	Letter Re: Freedom of Information - 19979 October 9 MacNeil letter/Richard - 1997 July 4 Accident reports (4 pages)
B-1-13	Letter from Premier MacLellan - 1997 November 20
B-1-14	Letter from Premier MacLellan - 1998 November 21
B-1-15	Scott letter/Richard - 1998 October 1 Scott letter/Fed. Justice Minister - 1998 October 2 (page 1)
B-1-16	Letter to Smith - 1998 November 4
B-1-17	Letter re: Optometry Act - 1998 November 18

Exhibit List B-1 (Cont'd)

B-1-18	HRPS letter/Deveaux - 1999 March 29 HRPS - Information of Motor Vehicle Accident
B-1-19	Letter from Baker - 1999 November 08
B-1-20	Richard letter/Baker - 1999 November 8 Harrison letter/Richard - 1999 February 11 Leahey letter/Mitchell - 1997 July 23 MacKay letter/Premier MacLellan - 1998 June 15 MacKay letter/Richard - 1998 June 19
B-1-21	Baker letter/Richard - 1999 December 20
B-1-22	Letter re: Municipal Government Act
B-1-23	Daily News in memoriam - Dean Richard Typed letter re: Dean
B-1-24	Page from Criminal Code - definitions
B-1-25	Affidavit of Shane Mailman (copy)
B-1-26	SL2 Breathalyzer Video Treatment- transcript
B-1-27	Retainer agreement - 1997 July 07 Affidavit of Shane Mailman (original) Chronological handwritten log (original) Richard letter/Leahey 1998 Feb. 22 E-mail Paul/Bill 1997 Nov. 06 Leahey letter/Richard 1997 Oct. 14 Chief MacDonald letter/Leahey 1997 Oct. 01 (original) Leahey letter/Chief MacDonald 1997 Sept. 26 Chief MacDonald letter/Richard 1997 Sept. 27 Minister Mitchell letter/Leahey 1997 Aug. 28 (original) Leahey letter/Mailman 1997 Aug. 27 Retainer agreement Richard Leahey letter/HRPS Professional Standards 1997 Aug. 25 Leahey letter/Mitchell 1997 Aug. 20 Leahey letter/Dept. of Justice (R.A. Barss) 1997 Aug. 20 Leahey letter/Mitchell 1997 July 23

Exhibit List B-1 (Cont'd)

(Cont'd)

B-1-27	Leahey letter/Richard 1997 July 09 Minister Mitchell letter/Richard 1997 May 09 (original) R.A. Barss letter/Richard 1997 Feb. 07 (original)
B-1-28	Chronological handwritten log (original) Fax sheet 1997 Aug. 27 David MacNeil letter/Richard 1997 July 4 (original) Report of traffic accident 1997 June 25 Abbass letter/Hon. Allan Rock 1996 Sept. 30 Richard letter/Richard 1997 Feb. 05 Newspaper clipping Note regarding insurance - Kelly Note regarding insurance - LeFresne

EXHIBIT LIST "C"

C-1	Information of motor vehicle accident & Accident report	
C-2	Accident report - field notes - drag factor tests	
C-3	Halifax Police Department Vehicle Inspection Notes of Cst. Falkenham	
C-4	Follow-Up Reports/Note Book Entries*	
	C-4-1	Constable Gallant
	C-4-2	Constable Lassoline
	C-4-3	Constable Young
	C-4-4	Constable Thompson
	C-4-5	Constable M. MacDonald*
	C-4-6-	Constable Saunders*
C-5	Witness Statements	
	C-5-1	Kimberley Ane Macdonald
	C-5-2	Crista Murray Richardson
	C-5-3	Lori Shonna McDonald
	C-5-4	Shane Mailman
	C-5-5	Jane Majorie LeFresne
	C-5-6	Shelley Knapton
	C-5-7	Jeffrey Terrance Kelly
C-6	Correspondence	
C-7	Summary offence ticket	
C-8	Photographs	
C-9	Scale Drawing of accident scene - Constable Gallant	
C-10	Two identical video tapes (held on file). Only one tape reproduced for each set of exhibits	
C-11	HRPS File 96-20390	

EXHIBIT LIST "D"

D-1	Memo from Dennis Kelly - PPSS, 24th May 2000
D-2	NS Department of Human Resources position Questionnaire for "Police and Public Safety Services Consultant". And organizational chart dated 7th November 1996
D-3	Civil Service Commission position description for "Audit Officer" - Policing Services 22nd April 1992
D-4	Computer disc (held in file)
D-5	Statement of Charles Richard - 15th May 2000
D-6	Statement of Karen Richard - 15th May 2000
D-7	Statement of W. M. David Camp - 31, May 2000
D-8	Statement of Jeffrey T. Kelly - 2, June 2000 - Consent to release information
D-9	Statement of Shane D. Mailman - to NSPC - 5, June 2000 Statement of Shane Mailman to insurance company
D-10	Documents from Department of Business & Consumer Service - Medical Standards for Drivers - Vision Standard - Application for Driver's License - Jeff T. Kelly - Driver's Abstract - Kelly 0802760004 - Template for Completing MV58A
D-11	Statement of Shelly Knapton - to NSPC - 5, June 2000 Statement of Shelly Knapton to insurance company
D-12	Statement of Lori Shonna McDonald - to NSPC - 8, June 2000 Statement of Lori Shonna McDonald to insurance company
D-13	Statement of Dennis P. Kelly - 14, June 2000
D-14	Statement of Jane M. LeFresne - to NSPC - 27, June 2000 Statement of Jane M. LeFresne to insurance company

Exhibit List D (Cont'd)

D-15	Statement of Charles F. Parlee - 06, July 2000
D-16	Memo dated 29, March 1999 to Mr. Harrison From Jonathan Davies (with attachments)
D-17	Prepared Statement of Jack Kavenaugh - Received 07, July 2000
D-18	Policy received from H.R.P. 07, July 2000
D-19	Statement of Robert A. Barss - 12, July 2000
D-20	Letters to Chief Medical Examiner and formal replies.
D-21	File as received from office of Chief Medical Examiner.
D-22	Statement of Madelyn Driscoll - 25 July 2000
D-23	Statement of Dr. C.P. Ozere - 10 Aug 2000
D-24	Statement of Robert Harrison - 24 Aug 2000
D-25	Correspondence to (from Jean Whalen, Crown Attorney)
D-26	Correspondence from Pat Duncan Re: Crown Attorneys
D-27	Statement of Vince MacDonald
D-28	Dispatch report of Halifax Regional Fire & Emergency Service
D-29	Statement of Jo-Ann Malloy
D-30	Course Training Standards from the Justice Institute of Canada - Holland College
D-31	Response of Cst. Falkenham - Page 1-6 Response of Cst. M. MacDonald - Page 7-12 Response of Cst. G. Gallant - Page 13-18 Response of Cst. M. Young - Page 19-22 Response of Cst. T. Lassoline - Page 23-25 Response of Cst. T. Shannon - Page 26-27 Response of S/Sgt. W. Hollis - Page 28-30 Response concerning Superintendent Beazley - Page 31-32

Exhibit List D (Cont'd)

D-32	"Consent to Release Information" - Dominion Life Insurance Company
D-33	Copy of Information of Motor Vehicle Accident LeFresne & Kelly reports
D-34	Statement of David LeFresne
D-35	Statement of Crista Richardson

Exhibit List D (Cont'd)

D-36	*Statement of Wm. Malcolm*	
D-37	*Documents relating to Mr. Mumford's initial contact with Richard family*	
D-38	*Documents received from Mr. Tingley - File for Adjusters Canada relating to MacDonald vehicle (driven by Mr. Kelly)*	*page 1/57*
	correspondence for period 26 July 1996 - 15 Oct. 1996	*page 1/20*
	typed statement of Patricia MacDonald	*page 21*
	typed statement of Kimberly MacDonald	*page 24/26*
	typed statement of Jeffrey Kelly	*page 32/35*
	rough diagram of accident scene	*page 42*
	photocopy of photographs	*page 43/46*
	various claim documents	*page 46/57*
D-39	*Medical records for Jane LeFresne obtained from Q.E. II Health Sciences Centre (includes consent form)*	*page 1/8*
D-40	*Medical records for Dean Richard obtained from Q.E. II Health Sciences Centre (includes consent form)*	*page 1/117*
D-41	*Copy of radio dispatch logs received from Halifax Regional Police*	
	UNIT ID: SPGN - Cst. Thomas David Shannon	*page 1 & 2*
	UNIT ID: F58N - Sgt. Donald Fox	*page 3/5*
	UNIT ID: A4N - Cst. Paul Kiley	*page 6/14*
	UNIT ID: WCON - S/Sgt. William Hollis	*page 15 & 16*
	UNIT ID: A5N - Cst. Thomas Thompson	*page 17/25*
	UNIT ID: A2N - Cst. Mark MacDonald	*page 26/32*
	UNIT ID: B11N - Sgt. Randall Snow	*page 33/36*
	UNIT ID: F55N - Cst. J. Winters	*page 37/45*
	UNIT ID: C25N - Cst. Gary Gallant	*page 46/52*
	UNIT ID: F57N - Cst. C. Pyke	*page 53/60*
	UNIT ID: A3D - Cst. Kevin Smith	*page 61/65*
	UNIT ID: A3N - Cst. Trevor Lassaline	*page 66/89*
Duplicate?	*UNIT ID: A3N - Cst. Trevor Lassaline*	*page 90/113*
	UNIT ID: F56N - Cst. Robin McNeil	*page 114/116*
	UNIT ID: A4D - Cst. Steven Cooper	*page 117/119*
Same Car A4D?	*UNIT ID: A4D - Cst. Robert Oostveen*	*page 119/122*
	UNIT ID: B12D - Cst. Peter Waldorf	*page 123/128*

Exhibit List D (Cont'd)

D-42	*Copy of RANA Reports from Halifax Regional Police Service*
D-43	*Sets of Photographs of accident scene*

Nova Scotia Police Commission
Exhibit List
Dean Richard Inquiry
00-0058

Date	Exhibit No	Submitted by:	Description
Nov 13/01	1	McKenna	Binder Volume A1 & A2
Nov 13/01	2	McKenna	Binder Volume B1 & C1
Nov 13/01	3	McKenna	Binder Volume D-1
Nov 13/01	4	McKenna	Binder Volume D Con't
Nov 13/01	5	McKenna	Video Tape of Accident Scene
Nov 13/01	6	McKenna	Map of Accident Scene
Nov 15/01	7	Duncan	Curriculum Vitae Cst. Mark MacDonald
Nov 15/01	8	Duncan	Curriculum Vitae Cst. Tom Thompson
Nov 15/01	9	Duncan	Curriculum Vitae Cst. Mark Young
Nov 16/01	10	Duncan	Curriculum Vitae Cst. Trevor Lassaline
Nov 16/01	11	Duncan	Curriculum Vitae S/Sgt. Donald Fox

Exhibit List - Dean Richard Inquiry

Date	Exhibit No	Submitted by:	Description
Nov 16/01	12	Duncan	Curriculum Vitae Sgt. Barb Saunders
Nov 16/01	13	Duncan	Curriculum Vitae Supt. Frank Beazley
Nov 16/01	14	Duncan	Curriculum Vitae Cst. Gary Gallant
Nov 19/01	15	Duncan	Curriculum Vitae Cst. Ron Faulkingham
Nov 19/01	16	Duncan	Cst. Gary Gallants Notes on the Photos
Nov 19/01	17	Duncan	Curriculum Vitae S/Sgt. William Hollis
Nov 22/01	18	McKenna	Rana Page indicating incident number and date closed by Sgt. Cooke
Nov 28/01	19	Arab-Clarke	Exhibit Book from HRP Mgt.
Nov 28/01	20	McKenna	Report of Police Service on Truro Issue
Nov 28/01	21	Arab-Clarke	Book of Various Versions of the Police Act & recommendations Marshall Inquiry
Nov 28/01	22	Arab-Clarke	Feb 5/97 letter to J. Abbas from Richards
Nov 28/01	23	Fisher	Response to Ken MacLean & Form 7